(53)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.2714 OF 2003

PETITIONER: Neha Dani, Daughter of Ghanshyam Prasad Dani, aged about 20 years, resident of Jawahar Nagar, Raipur (Chhattisgarh).

Versus

RESPONDENTS:

1. The State of Chhattisgarh, Through the Secretary, Medical and Health Services, Mantralaya, D.K.S. Building, Raipur (C.G.)
2. Director, Medical Education, Through Directorate, Medical Education, Chhattisgarh, Raipur (Chhattisgarh).
3. Dean, Medical Colege, Raipur, Raipur (Chhattisgarh).

POST FOR ORDER ON 1st OCTOBER, 2003

Sd/-
L.C.BHADOO
Judge

30TH September 2003

(54)

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.2714 OF 2003

PETITIONER: Neha Dani, Daughter of Ghanshyam Prasad Dani, aged about 20 years, resident of Jawahar Nagar, Raipur (Chhattisgarh).

Versus

RESPONDENTS:

1. The State of Chhattisgarh, Through the Secretary, Medical and Health Services, Mantralaya, D.K.S. Building, Raipur (C.G.)
2. Director, Medical Education, Through Directorate, Medical Education, Chhattisgarh, Raipur (Chhattisgarh).
3. Dean, Medical Colege, Raipur, Raipur (Chhattisgarh).

Shri H. B. Agarwal, Advocate, for the petitioner

Dr. N. K. Shukla, Additional Advocate General, for the State/respondents 1 to 3.

Before: Hon'ble Shri L.C. Bhadoo, J

O R D E R

(Passed on 1st October, 2003)

1. By this writ petition under Article 226 of the Constitution of India the petitioner has challenged the action of the Respondent No.3 refusing the petitioner to give her admission in the M.B.B.S. Course.
2. The petitioner's petition is that she appeared in the Pre Medical Test Examination under the Rules Annexure P/1. Rule 3 of the Rules prescribes that general category candidates who have secured minimum 50% marks aggregate in the subjects of Physics, Chemistry and Biology in the Higher Secondary Examination (10+2) are eligible to appear in the entrance examination for the P.M.T.

3. That the petitioner appeared in the said examination of P.M.T. for three times. For the examination of 2003 the petitioner submitted her application form on 10.3.2003 vide Annexure P/3 and admit card issued for the examination of 2003 is Annexure P/4. On the basis of the mark sheet issued by the respondents on 21.8.2003 the petitioner secured 27th position in merit as she secured 741 marks out of 900 marks in all the three subjects which is Annexure P/5. The petitioner was called for admission on 13th August, 2003 but as she received the call letter late therefore she could not appear on that date. Thereafter she was again called for counseling vide letter dt. 21.8.2003 to take the admission up to 2.9.2003 vide Annexure P/7. Accordingly the petitioner submitted her character certificate, transfer certificate, certificate of migrassion, admission card, statement of marks pass certificate, bonafide resident certificate, physical fitness certificate and draft of Rs. 12,000/- in favour of the Respondent No.3. But the respondent No.3 refused to admit the petitioner on the ground that she was not eligible to appear in P.M.T. examination as she could not secured agreegate of 50% marks in three subjects i.e. Physics, Chemistry and Biology in Higher Secondary examination; in spite of the fact that she was called to take admission vide Annexure P/6 and P/7. Now the respondents are stopped on the ground of promissory estoppels and they cannot refuse to admit the petitioner. As per Rule 13 the Govt. has issued Annexure P/6 and P/7 which shows that the respondents have relaxed the Rule 3 therefore refusing the admission to the petitioner is illegal and bad. Had the respondents disallowed the petitioner to appear in the said examination of P.M.T. itself then the petitioner would not have spoiled her valuable three years continuously. The respondents allowed the petitioner to appear in the entrance examination three times and now they cannot refuse admission on the ground that she was not eligible to appear in the examination of P.M.T. Therefore the respondents be directed to admit the petitioner in the medical college Raipur, applying the principles of promissory estoppel.

(56)

4. The reply has been filed on behalf of the respondents.
5. I have heard learned counsel for the petitioner Shri H.B.Agarwal and Dr. N. K. Shukla, learned Additional Advocate General.
6. It is not disputed by learned counsel for the petitioner that Rule 3 of the brochure issued by the respondents for P.M.T. examination envisaged that only those general category candidates were eligible to appear in the P.M.T. examination who had secured 50% aggregate marks in the subjects of Physics, Chemistry and Biology. It is also admitted position that as per the mark-sheet of the petitioner Annexure P/12 the aggregate marks secured in the above three subjects are not 50%. Only 49% marks were secured by the petitioner in the Higher Secondary Examination, therefore as per Rule 3 of the P.M.T. Examination the petitioner was not eligible to appear in the examination being a general category candidate.'
7. However the main ground taken by the petitioner is that even though the petitioner was not eligible to appear in the examination as she had not secured the prescribed aggregate 50% marks in three subjects in the Higher Secondary Examination but in spite of that the Respondents allowed the petitioner to appear in the entrance examination of P.M.T. for three times, therefore they are now stopped by the principles of promissory estoppel to raise this objection at the time of admission in the M.B.B.S. i.e. after passing the entrance examination of P.M.T. and securing 27th position in merit.
8. I do not find any substance in this ground raised by learned counsel for the petitioner. As in this case the principle of promissory estoppel does not apply because at the time of filling of the form the petitioner was well aware about Rule 3 which prescribes that only those general category candidates were eligible to appear in the P.M.T. examination who had secured aggregate of 50% marks in three subjects i.e. Physics, Chemistry and Biology. Knowingfully well that condition, the petitioner had applied and if inadvertently the staff of the respondents could not detect that ineligibility of the petitioner at the time of issuance of

(57)

Admit Card to appear in P.M.T. Examination and when at the time of the final admission, on scrutiny of the papers of the petitioner the Respondent No.3 came to know and detected the mistake i.e. the petitioner was not eligible to appear in the P.M.T. examination itself as per Rule 3, the petitioner cannot take the plea of promissory estoppel. The respondents had at no point of time made any promises that whosoever is allowed to appear in the P.M.T. examination and secured merit will be admitted to the medical course. The practice being followed by the respondents that at the time of admission the respondents scrutinize the documents of the candidates in order to ascertain whether the candidates fulfill all the requirements as per the Rules and if during scrutiny anything is detected which disentitles a candidate to seek admission, then they are within their right to refuse the admission to any candidate and the petitioner cannot canvass the principles of promissory estoppel because the candidate herself was aware at the time of filling of the form that she was not eligible to appear in the P.M.T. examination itself as per Rule 3 therefore there is no substance in the arguments of learned counsel for the petitioner.

9. As far as rule 13 is concerned which says that if any question arises regarding interpretation of the Rules then the decision of the Govt. will be final. In this case no question of interpretation of the Rules was involved therefore Rule 13 is also of no help to the petitioner.

10. In the result I do not find any substance in this writ petition. The petition is devoid of merit, which is liable to be and is dismissed.

Sd/-
L.C.BHADOO
Judge

Thakur